



Wakefern Food Corporation

Thomas P. Infusino
Chairman of the Board

April 4, 2003

The Honorable Ann Veneman
Secretary, U.S. Department of Agriculture
Country of Origin Labeling Program
Agricultural Marketing Service
Stop 0249 Room 2092-S
1400 Independence Avenue, SW
Washington, DC 20250-0249

VIA FAX #202-720-6314
(Total of 3 pages)

Re: Comments on Guidelines for Voluntary Country of Origin Labeling Program

Dear Secretary Veneman:

We are responding to your request for comments on the U.S. Department of Agriculture's (USDA's) Guidelines for the Interim Voluntary Country of Origin (COL) Labeling.

As we understand it, the country of origin declaration as defined by the law extends back to the farm or ranch on which the product originated. Based on these criteria, we are dependent on information that can only be provided by our suppliers to be in compliance with the law. We therefore urge the USDA to propose regulations ensuring that all suppliers who impact the country of origin determination are held responsible for giving retailers and our customers, complete, accurate and verifiable information.

Wakefern Food Corporation is the largest family owned food cooperative in the world employing 50,000 associates. We are families serving families through our 205 ShopRite & PriceRite supermarkets, located in 7 northeastern states. In the past year we have received 16 customer inquiries regarding country of origin for various products.

During the development of regulations, we urge you to address the following items:

1. Supplier Accountability in Providing Retailers with Accurate and Verifiable Country of Origin Information

Voluntary COL Guidelines state that producers, growers, handlers, packers, processors and importers must maintain auditable records documenting the origin of covered commodities and that these persons must make country of origin information available to retailers. USDA's regulations must also recognize the obligations that these parties share and must further hold them accountable through stringent enforcement measures to ensure that retailers have accurate information to provide to consumers.

2. Retention of Flexible Methods of Country of Origin Notification

The statute and guidelines mandate that COL information be provided to the consumer in the form of a "label, stamp, mark, placard or other clear and visible sign on the covered commodity or on the package." We request that the regulations maintain the same flexibility in the methods of notification.

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3. Elimination of Two Year Record Keeping Requirement for Retailers at Each Store

Guidelines require basic records to be kept at store level for two years; contracts and other more detailed records may be kept at warehouses or corporate headquarters.

Retailers should not be required to keep two years worth of records for covered commodities at store level since most covered commodities will be sold and consumed well before two years has elapsed. Retaining records for this period of time at the retail level serves no useful purpose and incurs substantial costs. We do encourage the retention of records in a hard format or an electronic version.

4. Food Service Areas Exemption in Grocery Stores

Our ShopRite Supermarkets offer consumers prepared foods at delis, salad bars, through catering, and other venues. The statute exempts food service establishments from the country of origin labeling program. We urge USDA to continue to recognize that foods provided from these venues within the retail store are properly considered subject to the statute's exemption from country of origin labeling for food service establishments. Trays of cut vegetables from our catering operations, fruit salad sold at delis or throughout the store, and foods provided at our salad bars are all prepared at food service.

5. Enforcement

Retailers are subject to penalties of up to \$10,000 per "willful" violation of the statute. USDA's regulations should recognize this standard in two important respects.

o Stickers on Majority of Items Is Sufficient To Inform Consumers

Consumers frequently separate individual bananas from the "hands" in which they were shipped so that not all hands will be labeled throughout the display period, even if the supplier labeled each hand before shipment.

Regulations must be recognize that if the majority of individual covered commodity items bear a label indicating the product's country of origin, the retailer has met the statute's requirement to inform the consumer of the country of origin of that covered commodity.

o Results of USDA Audit of Supplier Country of Origin Program Is Evidence That Retailer Has Not Willfully Violated Statute

USDA should expressly recognize in the regulations and the preamble some circumstances under which retailers will not be considered to have violated the statute willfully. For example, USDA should state that the Agency will not conclude that a retailer has willfully violated the statute for providing inaccurate country of origin information for a covered commodity if the retailer has the results of an audit that the covered commodity supplier obtained from USDA (under the voluntary, user fee-based program proposed in the Voluntary COL Guidelines) or another third party that demonstrates that the supplier has a system for determining country of origin upon which the retailer may reasonably rely. USDA should retain the voluntary user-fee-based audit system in the final regulations.

The Honorable Ann Veneman

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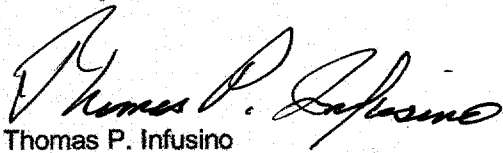
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6. Expedient Issuance of Regulations

Lastly, we urge you to promulgate rulemaking in an expedient manner. We will be required to set up significant systems and must obtain information from our suppliers to provide the information to consumers, and then to retain the information, we must know what those systems must accommodate as quickly as possible.

We thank you for the opportunity to provide comments, and look forward to working with you during the rulemaking development of the Country of Origin Program.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas P. Infusino".

Thomas P. Infusino